

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>DENCEO, LLC,</b>	)	<b>CASE NO.1:09CV0186</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE CHRISTOPHER A. BOYKO</b>
	)	
<b>Vs.</b>	)	
	)	
<b>CITIZENS BANK</b>	)	<b>ORDER</b>
	)	
<b>Defendant.</b>	)	

**CHRISTOPHER A. BOYKO, J:**

On December 16, 2008, Plaintiff Denceo, LLC (“Denceo”) commenced this action in Cuyahoga County Court of Common Pleas, alleging Defendant Citizens Bank (“Citizens”) improperly employed an interest calculation that resulted in interest overcharges. The Complaint seeks a declaration by the Court that Citizens’ use of the 365/360 method for calculating interest violated the terms of the agreement between the parties and seeks damages for breach of the agreement. On January 26, 2009, Citizens removed the case to United States District Court, alleging subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

The Court was recently apprised of a potential conflict arising from the facts of this case. Plaintiff’s counsel, Sonkin & Koberna Company, LPA (“Sonkin & Koberna”), provided a legal opinion on the validity of certain documents, including a Loan Agreement and the Commercial

Note at issue in this case. Sonkin & Koberna was counsel for Denceo and wrote the legal opinion for the benefit of Citizens per the terms of the Loan Agreement. Sonkin & Koberna now represents Denceo in this action wherein the terms of the Note are at issue. The Court now Orders Sonkin & Koberna to file a brief with this Court no later than April 6, 2009, justifying why the law firm may ethically continue to represent Plaintiff in this action. Illustrative of the potential conflicts in this case are the following provisions of the Ohio Rules of Professional Conduct, which the Court finds should be addressed by the parties:

Rules 1.7- Conflict of Interest

Rule 2.3- Evaluation for Use by Third Persons

Rule 3.7- Lawyer as Witness

The parties are free to discuss other provisions of the Rules and case law they find pertinent to the issues presented by the facts of this case.

Defendant shall file a responsive brief no later than April 13, 2009. The Court will rule on this issue prior to setting further dates. The Court may hold a hearing if the parties so request and the Court deems it useful to determining the issues.

IT IS SO ORDERED.

S/Christopher A. Boyko  
CHRISTOPHER A. BOYKO  
United States District Judge

March 31, 2009